

**BY UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

MENACHEM DAVID LEFF, )  
                            )  
Plaintiff,              )  
                            ) C.A. No.: 2:19-cv-05440-JS-ARL  
v.                         )  
                            )  
YAIR MATAN and KARISH KAPITAL LLC, )  
                            )  
Defendants.             )

**PLAINTIFF'S STATUS REPORT PURSUANT TO COURT REQUEST**

Pursuant to the Court's request for a status report concerning arbitration, D.I. 14, Plaintiff reports as follows:

1. On February 13, 2020 Michael B. Ershowsky ("Ershowsky"), counsel for Plaintiff, contacted Leslie Perez-Bennie ("Bennie"), counsel for Defendants, discussed by phone the case status including, among other things, the selection of an arbitrator. During the phone call, Bennie advised Ershowsky of Defendants' intention of seeking summary judgment on Plaintiff's first and second causes of action and Defendants' position that such motion would stay discovery and other proceedings in the action, including the arbitration.

2. On February 14, 2020, Bennie sent Ershowsky an email with an attached statement of undisputed facts pursuant to Local Rule 56.1.

3. On February 20, 2020, Ershowsky responded to Bennie in an email, expressing Plaintiff's position that discovery was not stayed by Defendants' service of a Rule 56.1 statement and Defendants are obligated to comply with discovery obligations pursuant to Plaintiff's previous discovery notices.

4. On February 21, 2020, Bennie emailed Ershowsky, reiterating the Defendants' position that discovery should be stayed.

5. On February 21, 2020, Ershowsky filed a letter requesting a telephone conference with Magistrate Judge Arlene Rosario Lindsay concerning the discovery schedule and arbitration. D.I. 12.

6. On the same day, Bennie filed a letter opposing such conference and asserting that all proceedings, including discovery and the arbitration, are stayed. D.I. 13.

7. The parties dispute whether the initiation of Defendants' motion for summary judgment stays discovery and other proceedings in the action, including the arbitration. Judge Rosario Lindsay has not ruled on this issue, and the parties are at an impasse.

8. As a result, Defendant has not responded to any request for discovery by Ershowsky including document request, interrogatories, and proceeding with a noticed deposition.

9. Without the Court's resolution of the dispute as to whether discovery and the arbitration are in fact stayed, the parties cannot proceed.

Dated: March 4, 2020

*Michael Ershowsky*  
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